

# ARKANSAS SUPREME COURT

No. CR 07-983

HAROLD EDWARD CHISM  
Appellant

v.

STATE OF ARKANSAS  
Appellee

Opinion Delivered January 10, 2008

PRO SE MOTIONS FOR  
DUPLICATION OF BRIEF AT PUBLIC  
EXPENSE, FOR APPOINTMENT OF  
COUNSEL, TO PROCEED IN FORMA  
PAUPERIS AND TO FILE  
OVERLENGTH BRIEF [CIRCUIT  
COURT OF WASHINGTON COUNTY,  
CR 91-413, HON. WILLIAM A.  
STOREY, JUDGE]

APPEAL DISMISSED; MOTIONS  
MOOT.

## PER CURIAM

Appellant Harold Edward Chism, an inmate in the custody of the Arkansas Department of Correction, filed a petition in Washington County Circuit Court seeking a writ of habeas corpus. The circuit court denied and dismissed the petition. Appellant filed a motion that sought reconsideration of that decision, which was also denied. Appellant has lodged an appeal of those two orders in this court, and now brings pro se motions for duplication of his brief at public expense, for appointment of counsel, to proceed in forma pauperis and to file an overlength brief. We dismiss the appeal and the motions are therefore moot.

This court has consistently held that an appeal of the denial of postconviction relief, including an appeal from an order that denied a petition for writ of habeas corpus, will not be permitted to go forward where it is clear that the appellant could not prevail. *Booth v. State*, 353 Ark. 119, 110

S.W.3d 759 (2003) (per curiam); *Pardue v. State*, 338 Ark. 606, 999 S.W.2d 198 (1999) (per curiam); *Seaton v. State*, 324 Ark. 236, 920 S.W.2d 13 (1996) (per curiam); *Harris v. State*, 318 Ark. 599, 887 S.W.2d 514 (1994) (per curiam); *Reed v. State*, 317 Ark. 286, 878 S.W.2d 376 (1994) (per curiam). Here, it is clear that appellant cannot prevail on appeal because the circuit court did not have jurisdiction to grant the petition and the relief sought.

Any petition for writ of habeas corpus to effect the release of a prisoner is properly addressed to the circuit court in the county in which the prisoner is held in custody, unless the petition is filed pursuant to Act 1780 of 2001. *Lukach v. State*, 369 Ark. 475, \_\_\_ S.W.3d \_\_\_ (2007) (per curiam). Appellant did not invoke Act 1780. Appellant is, and was at the time the petition was filed, incarcerated in Jefferson County.

Washington County Circuit Court did not have personal jurisdiction to release a petitioner who was held in Jefferson County. *See id.* A circuit court does not have jurisdiction to release on a writ of habeas corpus a prisoner not in custody in that court's jurisdiction. *Mackey v. Lockhart*, 307 Ark. 321, 819 S.W.2d 702 (1991). Accordingly, we dismiss the appeal and the motions are therefore moot.

Appeal dismissed; motions moot.